

## **REMARKS**

Claim 1 remains in the present Application. Claims 2-43 were previously canceled without prejudice by a Preliminary Amendment submitted by the Applicant on September 19, 2003. No new matter has been added.

### Specification

In the present Office Action, the disclosure is objected to because of the following informalities. The Examiner has requested that the specification should be updated with regard to the status of the parent applications for the present Application. Both U.S. Application Serial Nos.: 10/062,341 and 09/824,327 have been abandoned.

A "new paragraph" replaces an "old paragraph" under the heading of Related Applications in the specification to update the priority information. Both U.S. Application Serial Nos.: 10/062,341 and 09/824,327 have been listed as abandoned in the new paragraph.

### Information Disclosure Statement (IDS)

In the present Office Action, the listing of a single reference on PTO form 1449 is incomplete. The LaVecchio reference is missing the year of publication.

The LaVecchio reference was published in 1995. A copy of the reference, as displayed in the PubMed catalog, is hereby attached as Exhibit A. In addition, a revised page two of the previously filed PTO form 1449 on September 19, 2003 is hereby attached as Exhibit B. Page 2 of the revised PTO form 1449 now lists the year of publication for the LaVecchio reference as 1995.

### Double Patenting

In the present Office Action, Claim 1 is rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over the following claims:

1. claims 2 and 7 of U.S. Patent No. 5,902,338;
2. claims 1-8 of U.S. Patent No. 6,110,206;
3. claims 1-17 of U.S. Patent No. 6,210,440;
4. claims 1-5 of U.S. Patent No. 6,231,608;

5. claims 1-11 of U.S. Patent No. 6,402,783; and
6. claims 1, 2, 4, 5, 7-10 of U.S. Patent No. 6,758,865.

The Applicant acknowledges the double patenting rejections recited above and intends to file a Terminal Disclaimer. However, the Terminal Disclaimer cannot be filed at this time as there is not common ownership in the present Application and one or more of the references. The Applicant is resolving the ownership issue and expects to complete that resolution shortly, at which time the Terminal Disclaimer will be filed in a Supplemental response to the present Office Action.

## CONCLUSION

Applicant submits that Claim 1 is remaining in the application, and is now in condition for allowance. As stated above, a Terminal Disclaimer will be filed shortly in a Supplemental Response to the present Office Action. Upon receipt of the Terminal Disclaimer, passage to issue is requested. In the event that a telephone conversation would further prosecute and/or expedite allowance, the Examiner is invited to contact the undersigned at (617) 310-6000.

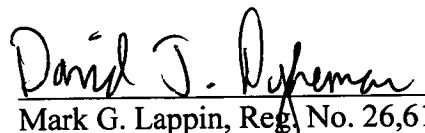
Applicant requests a three month extension of time, which is hereby attached.

If any other extension or fee be required, Applicant hereby petitions for same and requests that such and any other fee required for timely consideration of this application be charged to Deposit Account No. 50-2678.

Respectfully Submitted,

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